

REMARKS

Favorable reconsideration is respectfully requested in view of the following remarks.

On page 3 of the Advisory Action mailed August 3, 2007, the Office contends that the limitations "single daily dose" recites a future intended use and thus is not afforded patentable weight in claims to a composition. Applicants respectfully disagree with the Office's position.

Applicants note that claim 3, as amended, is directed towards a pharmaceutical composition which is administered in a single daily dose, while obtaining the desired therapeutic affect. Applicants respectfully suggest that this "single daily dose" limitation should be considered by the Examiner as a functional limitation. In particular, the Applicants note that the preamble recites a pharmaceutical composition, and therefore a person of skill in the art would understand that such claim is limited to a pharmaceutical composition that is a single daily dose. Applicants further point to MPEP §2173.05(g) which recites *In re Bar* (444 F.2d 588,170 USPQ 330 (CCPA 1971)). In such case, a limitation used to define a radical and chemical compound as "incapable of forming a diode with said oxidizing developing agent" was found acceptable because it set definite boundaries on the patent protection sought.

Applicants therefore respectfully request the Examiner to reconsider the reasoning set forth in the Advisory Action.

In view of the foregoing remarks, the present application is in condition for allowance and early notice of that effect is hereby requested.

If the Examiner has any comments or proposal for expediting prosecution, please contact the undersigned attorney at the telephone number below.

Respectfully submitted,

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